



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### TIDEWATER REGIONAL OFFICE

5636 Southern Boulevard, Virginia Beach, Virginia 23462

(757) 518-2000 Fax (757) 518-2009

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Doug Domenech  
Secretary of Natural Resources

David K. Paylor  
Director

## **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO**

### **SORRENTINO MARIANI & COMPANY**

**Registration No. 61347**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Sorrentino Mariani & Company for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, the applicable permit and regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the Sorrentino Mariani & Company facility located at 2701 St. Julien Avenue, Norfolk, Virginia.
5. "FCE" means a full compliance evaluation by DEQ staff.

6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
8. "Permit" means a State Operating Permit to operate five spray coating booths at the Facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Sorrentino Mariani & Company on December 26, 2001.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapters 10 through 80.
10. "Sorrentino Mariani" means Sorrentino Mariani & Company, a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Sorrentino Mariani is a "person" within the meaning of Va. Code § 10.1-1300.
11. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*), of Title 10.1 of the Va. Code.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Sorrentino Mariani owns and operates the Facility in Norfolk, Virginia which manufactures contract furniture including case goods, tables, cabinets and fixtures for hotels, motels, health care facilities, dormitories and original equipment manufacturers. The Facility is the subject of the Permit which includes five spray coating booths.
2. On November 4, 2010, DEQ compliance staff conducted a FCE at the Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the inspection and follow-up information, DEQ staff made the following observation:
  - a. The particulate filter in Booth 5b and Booth 6 were not installed properly, allowing for uncontrolled particulate material emissions;
  - b. Containers of coatings and wiping stains with Volatile Organic Compounds ("VOC") were not properly sealed, allowing for uncontrolled VOC emissions;

- c. The manometers in Booth 1 and Booth 6 were not maintained per the manufacturer's written requirements or recommendations;
  - d. Biphthalate CAS# 117-81-7, a Hazardous Air Pollutant ("HAP"), had been in use at the Facility since January 2010. Biphthalate CAS# 117-81-7 is not listed in the Permit as a HAP for use at the Facility nor did Sorrentino Mariani notify DEQ of the use of the additional HAP Biphthalate CAS#117-81-7 within 15 days of using it;
  - e. A review of Sorrentino Mariani records indicated that Sorrentino Mariani did not keep records of throughput for all wood furniture coatings and thinners as: the sum of each consecutive 12-month period from April 2008 to October 2010, hourly and consecutive 12-month annual VOC emissions from July 2010 to October 2010, emission calculations for each HAP and all HAPS as the sum of each consecutive 12-month period from July 2010 to October 2010, and did not keep records for the use of Biphthalate CAS#117-81-7.
- 3. Condition 3 of the Permit states that, "Particulate emissions from the spray booths shall be controlled by filters and techniques to minimize overspray..."
  - 4. Condition 4(b) of the Permit states that, "Volatile organic compounds shall not be intentionally spilled, discarded to sewers, stored in open containers, or handled in any other manner that would result in evaporation beyond that consistent with air pollution control practices for minimizing emissions."
  - 5. Condition 5 of the Permit states that, "Each spray booth fabric filter shall be equipped with a device to continuously measure the differential pressure drop across the fabric filter. Each monitoring device shall be installed and maintained in accordance with approved procedures which shall include, as a minimum, the manufacturer's written requirements or recommendations..."
  - 6. Condition 8 of the Permit requires that notification be given to the Director within 15 days of using a HAP not listed in the Permit.
  - 7. Condition 12 of the Permit states in part that, "Excluded pollutants listed in 40 CFR Part 63 Subpart JJ, Table 4 shall not be used in any coating or cleaning processes at the facility."
  - 8. Condition 14(a), (b), and (c) of the Permit requires the keeping of records of annual throughput, hourly and annual VOC emissions and annual HAP emissions for each HAP and all HAPS as the sum of each consecutive 12-month period.
  - 9. On December 2, 2010, based on the November 4, 2010 evaluation, the DEQ issued a NOV to Sorrentino Mariani for the violations described in paragraphs C(2) through C(8), above.

10. On January 31, 2011 and December 13, 2011, DEQ staff met with Sorrentino Mariani staff to discuss the NOV.
11. Based on the results of the November 4, 2010 evaluation, file review and information provided during the January 31, 2011 and December 13, 2011 meetings, the Board concludes that Sorrentino Mariani has violated Condition 3, Condition 4(b), Condition 5, Condition 8, Condition 12 and Condition 14(a), (b), and (c) of the Permit described in paragraph C(3) through C (9), above.
12. Sorrentino Mariani has submitted documentation during the January 31, 2011 and December 13, 2011 meetings and on January 13, 2012 that verifies that the violations described in paragraphs C(2) through C(8), above, have been corrected.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and 1316, the Board orders Sorrentino Mariani and Sorrentino Mariani agrees to pay a civil charge of \$5,005.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Sorrentino Mariani shall include its Federal Employer Identification Number (FEIN ~~54-1855659~~) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Sorrentino Mariani good cause shown by Sorrentino Mariani, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Sorrentino Mariani admits to the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law in this Order.
4. Sorrentino Mariani consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Sorrentino Mariani declares it has received fair and due process under the Administrative Process Act, Va. Code and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Sorrentino Mariani to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. Sorrentino Mariani does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Sorrentino Mariani shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Sorrentino Mariani shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Sorrentino Mariani shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours and in writing within three business days, of learning of any condition above, which Sorrentino Mariani intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Sorrentino Mariani. Nevertheless, Sorrentino Mariani agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - (a) The Director or his designee terminates the Order after Sorrentino Mariani has completed all of the requirements of the Order;
  - (b) Sorrentino Mariani petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - (c) the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Sorrentino Mariani.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Sorrentino Mariani from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

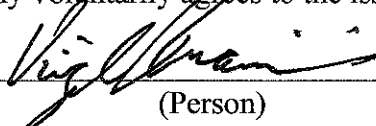
12. Any plans, reports, schedules or specifications attached hereto or submitted by Sorrentino Mariani and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Sorrentino Mariani certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Sorrentino Mariani to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Sorrentino Mariani.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Sorrentino Mariani voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 21 day of February, 2012.

  
Regional Director  
Department of Environmental Quality

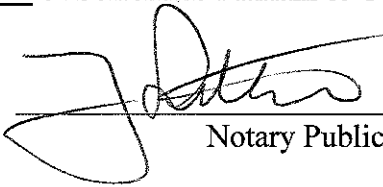
Sorrentino Mariani & Company voluntarily agrees to the issuance of this Order.

Date: 2-15-2012 By:  President  
(Person) (Title)  
of Sorrentino Mariani & Company.

**Commonwealth of Virginia**

City/County of Norfolk

The foregoing document was signed and acknowledged before me this 15th day of February, 2012, by Virgin R. Mariani, who is President of Sorrentino Mariani & Company on behalf of Sorrentino Mariani & Company.

  
Notary Public  
282078  
Registration No.

My commission expires: 07-31-2012  
Notary Seal:

